

EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

Proposed Work Plan for the 2003 - 2004 Interim

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INTRODUCTION

This document is a proposed interim work plan for the Education and Local Government Interim Committee. It will guide the Committee in planning its work for the next 12 months. A final work plan will be adopted by the Committee at its first meeting on August 21, 2003. However, the work plan is flexible, and the Committee may make changes as necessary throughout the interim.

The work plan is divided into five sections:

- ▼ Introduction
- ▼ Interim Study Assignment
- ▼ Statutory Duties
- ▼ Other Issues for Review and Analysis
- ▼ Committee Budget and Meeting Schedule

INTERIM STUDY ASSIGNMENT

As a result of the poll of legislators regarding interim studies, the Legislative Council assigned House Joint Resolution No. 37 (HJR 37) to the Committee. HJR 37 requests a review of the Montana Subdivision and Platting Act and recommendations for legislation to revise the Act so that it is clear, concise, logically organized, and in conformance with the Bill Drafting Manual published by the Legislative Services Division. The Committee may devote significant time to the study or direct staff to prepare a "white paper" on the subject. Leanne Kurtz, the Research Analyst who will direct the study, will present a study plan at the October meeting.

STATUTORY DUTIES

Administrative Rule Review and Agency Monitoring

Interim committees have a number of statutory duties that are common to all committees.

These duties are listed in 5-5-215, MCA. Each interim committee shall:

- (1) review administrative rules within its jurisdiction;
- (2) conduct interim studies as assigned;
- (3) monitor the operation of assigned Executive Branch agencies with specific attention to the following:
 - (a) identification of issues likely to require future legislative attention;
 - (b) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
 - (c) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
- (4) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules;
- (5) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work; and
- (6) prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the Legislature.

The Education and Local Government Committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following state agencies and the entities attached to the agencies for administrative purposes:

- ▼ State Board of Education
- ▼ Board of Regents of Higher Education
- ▼ Board of Public Education
- ▼ Office of Public Instruction

In the area of administrative rule review, special provisions apply to the Board of Regents and the Board of Public Education. The Board of Regents is exempted from the Montana Administrative Procedure Act (2-4-102(2)(a)(iii)) and therefore, any rules adopted by the Board of Regents are not subject to legislative review.

In a 1992 decision, Judge Jeffrey Sherlock of the First Judicial District ruled that the Board of Public Education is vested with constitutional rulemaking authority that is independent of any power that is delegated to the Board by the Legislature. (The decision was not appealed to the Montana Supreme Court, so it only applies to the First Judicial District, which includes Lewis &

Clark County.) Therefore, any administrative rules adopted by the Board of Public Education are not subject to legislative review. However, the Board has voluntarily requested that the Committee review its rules.

The Committee must decide how it wishes to fulfill its statutory duties. Appendix A of this proposed work plan is an issues and options paper that will help guide the Committee in its decisionmaking.

Postsecondary Education

The Committee's postsecondary education duties include:

- (1) providing information to the Board of Regents on annual budget allocations, annual goal statement development, long-range planning, outcome assessment programs, and any other area that may have significant educational or fiscal policy impact;
- (2) periodically reviewing the success or failure of the University System in meeting its annual goals and long-range plans;
- (3) periodically reviewing the results of outcome assessment programs;
- (4) developing mechanisms used to ensure strict accountability with regard to the revenue and expenditures of the University System;
- (5) studying and reporting to the Legislature on the advisability of adjustments to the mechanisms used to determine funding for the University System; and
- (6) acting as a liaison between both the Legislative and Executive Branches and the Board of Regents.

During the 2001-2002 interim, the postsecondary education duties were handled by the Postsecondary Education Policy and Budget (PEPB) Subcommittee of the Education and Local Government Interim Committee. The Subcommittee was composed of four legislators from the Committee, two legislators from the Legislative Finance Committee, two Regents, and a representative of the Governor's Office. The Subcommittee was staffed by Pam Joehler, Senior Fiscal Analyst, Legislative Fiscal Division.

In order to fulfill its statutory responsibilities regarding postsecondary education, the Committee may choose from the following options:

- (1) Establish a PEPB Subcommittee. (If this option is selected, the Committee will have to decide on the membership of the Subcommittee.)
- (2) Have the Committee as a whole handle the postsecondary education duties.

Local Government

The Committee's local government duties are to:

- (1) promote and strengthen local government through recognition of the principle that strong communities, with effective, democratic governmental institutions, are one of the best assurances of a strong Montana;
- (2) bring together representatives of state and local government for consideration of common problems;
- (3) provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- (4) identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
- (5) promote concise, consistent, and uniform regulation for local government;
- (6) coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
- (7) review state mandates to local governments that are subject to 1-2-112, MCA, and 1-2-114 through 1-2-116, MCA; and
- (8) make recommendations to the Legislature, Executive Branch agencies, and local governing bodies concerning:
 - (a) changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
 - (b) changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
 - (c) methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
 - (d) training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government.

HJR 37, the interim study assigned to the Committee, is a local government study. In addition, the Committee can choose other local government issues on which to work.

OTHER ISSUES FOR REVIEW AND ANALYSIS

K-12 Public School Renewal Commission

House Bill No. 736 created the K-12 Public School Renewal Commission to propose changes

and new provisions regarding the several components of K-12 public education, including:

- (1) revenue available for public education;
- (2) structure of school district governance;
- (3) methods of funding public education;
- (4) role of state government in public education; and
- (5) role of federal government in public education.

The Committee should keep informed of the activities of this Commission and provide assistance, if necessary.

"No Child Left Behind"

The reauthorization of the Elementary and Secondary Education Act, more popularly called "No Child Left Behind" (NCLB), is creating tremendous waves all across the nation. NCLB makes sweeping changes that will require every state to implement new assessment policies, hire highly qualified teachers, impose sanctions on low-performing schools, and allow students to transfer to better-performing schools. Committee staff proposes to write a series of issue briefs on NCLB to inform the Committee about and perhaps initiate some discussion on NCLB's various provisions and how those provisions will impact Montana.

Fair Play Missoula v. City of Missoula

On August 13, 2002, the Montana Supreme Court issued an opinion in the case of *Fair Play Missoula v. City of Missoula*. One of the issues in the case was whether the City of Missoula had granted an exclusive franchise to Play Ball Missoula, Inc., without a public vote as required by 7-5-4321(2), MCA. The Court concluded that the City did not grant an exclusive franchise to Play Ball Missoula and the voter approval provisions did not apply. That being said, the Court went on to say that "governmental franchise law is not well developed in Montana. Indeed, the term 'franchise' in this context is not even defined". The Court expressed concern that current law does little to protect the public interest when a local government considers a request from a business seeking a franchise. The Court stated, "this area of law is one which the Legislature may wish to examine in a future session".

The Committee may wish to look into the issue of governmental franchises and develop legislation for the 2005 session.

COMMITTEE BUDGET AND MEETING SCHEDULE

The Committee has been allocated \$32,000 for the interim. This will cover legislative salaries and expenses as well as other operational costs, such as printing and postage. This budget will

allow the Committee to hold six meetings during the interim, two of which may be 2-day meetings, and an organizational meeting following the 2005 legislative session. Last interim, this Committee held only one 2-day meeting in July 2002. (This does not include the public forums the Committee held around the state in conjunction with the Governor's Public School Funding Advisory Council.) The budget assumes 100% participation by all Committee members and makes certain assumptions about travel costs and overnight lodging.

Staff is proposing that the Committee meet six times during the interim with a 2-day meeting in the summer of 2004. The proposed schedule is as follows:

- ▼ Thursday, August 21, 2003
- ▼ Thursday, October 23, 2003
- ▼ Friday, January 9, 2004
- ▼ Friday, April 2, 2004
- ▼ Wednesday, June 9, 2004
- ▼ Wednesday & Thursday, August 18-19, 2004

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